

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:12-00187

JAMES T. WASHINGTON

MEMORANDUM OPINION AND ORDER

Pending before the Court is defendant's motion to reduce his sentence based upon the First Step Act of 2018. (ECF No. 99).

Pursuant to Standing Order, see ECF No. 104, the Office of the Federal Public Defender provided a response regarding defendant's eligibility for relief under the First Step Act and concluded that defendant was not eligible. See ECF No. 106.¹

On December 21, 2018, the First Step Act was signed into law. See Pub. L. No. 115-391, 132 Stat. 5194 (2018). The First Step Act applies the relief provided in the Fair Sentencing Act of 2010, which reduced the disparity in the treatment of crack and powder cocaine offenses, retroactively to eligible defendants. Under the First Step Act, "a court that imposed a sentence for a covered offense" may "impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the covered offense was committed." Id. at § 404(b).

¹ His motion for appointment of counsel (ECF No. 96) is **DENIED** as moot.

To be eligible for a reduced sentence under the First Step Act, a defendant's sentence must not have been previously imposed or reduced in accordance with Sections 2 and 3 of the Fair Sentencing Act. Id. at § 404(c). In addition, a sentence may not be reduced if the defendant has made a previous motion for a reduction under the First Step Act that was denied on the merits. Id. Furthermore, a court is not required to reduce a sentence under the First Step Act. Id.

Defendant is not eligible for relief as he was sentenced in 2013, after the Fair Sentencing Act went into effect. See ECF No. 106. Therefore, defendant's motion is **DENIED**.

The Clerk is **DIRECTED** to send a copy of this Memorandum Opinion and Order to defendant and counsel of record.

It is SO ORDERED this 5th day of June, 2024.

ENTER:



David A. Faber
Senior United States District Judge